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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,908	01/07/2004	John Lupoi	60092-0011	5652
29989 7590 03/19/2009 HICKMAN PALERMO TRUONG & BECKER, LLP 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110				
EXAMINER				
SALCT, JASON P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/753,908

Applicant(s)

LUPOI ET AL.

Examiner

Jason P. Salce

Art Unit

2421

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,32,63 and 94-113 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,32,63 and 94-113 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's argument filed 12/31/2008 regarding the 112 1st Paragraph rejection is persuasive. The Examiner had been referencing the PG-PUB of the Application, where Applicant had been referencing the electronic submission of the specification.

Applicant's arguments filed 12/31/2008 have been fully considered but they are not persuasive.

Applicant argues that Sai does not teach or suggest any notification. The Examiner respectfully disagrees.

Sai discloses displaying multiple videos to a user in an electronic program guide (see **Figure 6**) and further teaches that the electronic program guide notifies a user of how many audiences have viewed a program listed in the electronic program guide (see **the Program D cell in Figure 6 and further note the percent value displayed that indicates the popularity of Program D among various audiences (also note Column 5, Lines 39-45 and Column 8, Lines 19-31)**). Regardless of whether the television program has been viewed by the user or not, a notification is still capable of being transmitted and displayed to the user on the electronic program guide of Sai.

Applicant also argues that Sai does not teach that the particular video needs to have been viewed by any entities other than the user. The Examiner respectfully disagrees.

Sai discloses that the popularity value displayed to the user in Figure 6 is an indication of how many audiences have viewed the video (**see Column 5, Lines 41-43**).

Applicant also argues that the beRecruited.com website does not notify an athlete that a recruiting entity has simply requested information about the athlete because the athlete is only notified when a recruiter bookmarks the athlete.

The Examiner disagrees and notes that by the beRecruited.com teaching that a recruiter can bookmark an athletes profile and the athletes can see which recruiters/coaches that have bookmarked them (**see previous Office Action**), that this is a clear teaching of a notification that a recruiting entity has requested information (**the athletes profile**) about the particular athlete, as recited in the claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 32 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Paragraph 0306 of Applicant's specification defines a machine readable medium as a transmission media (signal), which has been deemed non-statutory subject matter (see MPEP 2106).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 32, 63 and 94-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erdelyi (U.S. Patent No. 6,631,522) in view of the beRecruited.com website (dated 12/17/2003) in further view of Sai et al. (U.S. Patent No. 6,822,661).

Referring to claim 1, Erdelyi discloses a method for providing video (see **Column 2, Lines 5-9 for providing video**) to a recruiting entity (see **Column 24, Lines 26-28 for the system being used by various types of recruiting entities such as a coach or scout**).

Erdelyi also discloses receiving, from the recruiting entity, one or more search criteria (see **Column 7, Lines 1-11 for submitting search criteria and Column 24, Lines 26-28 for the user being a coach or scout**).

Erdelyi also discloses that in response to receiving the one or more search criteria, determining one or more athletes that satisfy the one or more search criteria (see **Column 7, Lines 16-24 for locating players/athletes information and presenting a list of athletes that match the search criteria**).

Erdelyi also discloses sending, to the recruiting entity, identities of the one or more athletes (see **scrollable list of players 142 in Figure 4b and Column 7, Lines 16-24**).

Erdelyi also discloses receiving, from the recruiting entity, a request to view a profile of a particular athlete **(see Column 7, Lines 33-38 for selecting a player from the presentable list of players that have met the user's search criteria).**

Erdelyi also discloses that in response to receiving the request to view the profile of the particular athlete, sending, to the recruiting entity, information about the particular athlete, wherein the information includes an identity of at least one motion video that is associated with the particular athlete **(see Column 7, Lines 56-65 for selecting motion videos corresponding to the athlete selected by the user (see above)).**

Erdelyi also discloses receiving, from the recruiting entity, a request to view a particular motion video **(see Column 8, Lines 18-29 for transmitting a request to view a motion video).**

Erdelyi also discloses that in response to receiving the request to view the particular motion video, sending, over a communication link, to the recruiting entity, data that represents the particular motion video **(see again Column 8, Lines 56-65 for viewing the selected motion video and further note for the invention being implemented over a network at Column 5, Lines 8-19).**

Erdelyi fails to disclose notifying an athlete when a recruiting entity has viewed an athlete's personal profile which includes the athlete's videos.

The beRecruited.com website teaches that in response to receiving a request to view an athlete's profile, sending, to the particular athlete, over a communication network, a notification that the recruiting entity requested information about the particular athlete **(see the "Connect with Coaches" section and Item 10 under the**

“Athletes and Parents” section for notifying an athlete when a coach bookmarks the athlete’s profile).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the athlete data retrieval system, using the athlete notification system, as taught by the beRecruited.com website, for the purpose of improving an athletes chances of being recruited and earning an athletic scholarship (see the **“High School Athletes”** section).

Although Erdelyi and the beRecruited.com website teaches notifying an athlete when a recruiting entity requests to view the athlete’s profile (**which includes motion videos of the athlete**) Erdelyi and the beRecruited.com website fails to teach notifying an athlete when a recruiting entity has specifically viewed the athlete’s motion video(s).

Sai discloses notifying a user of motion videos that have been by other entities (see **Figure 6 and Column 8, Lines 20-31 for displaying information corresponding to entities that have viewed a particular motion video**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the athlete notification data sent to the athlete to notify the athlete that his/her profile has been viewed, as taught by Erdelyi and the beRecruited.com website, to include data that informs the user/athlete which motion videos have been viewed by various different entities, as taught by Sai, for the purpose of allowing the user to easily understand the conditions of the contents in a short period (see **Column 2, Lines 30-31 of Sai**).

Referring to claim 113, the beRecruited.com website also discloses receiving, from the particular athlete, initial information about the particular athlete and in response to receiving the initial information, storing the initial information in association with the particular athlete and after receiving the initial information, receiving, from the particular athlete, subsequent information about the particular athlete and in response to receiving the subsequent information, storing the subsequent information in association with the particular athlete **(see the “Connect with Coaches” section on Page 2 of 2 for allowing a user to adding initial (*detailed personal information*) and subsequent (*action movies*) to the athlete’s profile).**

The beRecruited.com website also discloses receiving a search request from the recruiting entity and in response to receiving the search request, performing the steps of (a) reading, from a database, a particular set of requirements that are associated with the recruiting entity, (b) selecting, from among a set of athletes, a subset of athletes that satisfy the particular set of requirements, and (c) sending, to the recruiting entity, over a communication network, a first message that identifies athletes in the subset of athletes **(see the “How to I search for athletes?” section on Page 6 of 7 for search for athletes that meet the recruiting entity’s search criteria). Further note that Erdelyi also discloses these limitations at Column 7, Line 1 through Column 9, Line 3.**

The beRecruited.com website further discloses receiving, from the recruiting entity, a request to associate the particular athlete with the recruiting entity and in response to receiving the request to associate, storing an association between the particular athlete and the recruiting entity and in response to receiving the request to

associate, sending, over a communication link, to the particular athlete, a second message that indicates that the particular athlete has been associated with the recruiting entity and receiving, from the recruiting entity, a request to receive identities of athletes that currently are associated with the recruiting entity and in response to the request to receive the identities of the athletes that are associated with the recruiting entity, sending, over a communication link, to the recruiting entity, a notification that indicates the identities of athletes that currently are associated with the recruiting entity (see the “How to I search for athletes?” section on Page 6 of 7 for bookmarking an athlete’s profile and accessing the bookmark later using the recruiting entity’s personal homepage). *Further note Column 13, Line 66 through Column 16, Line 20 for entering athlete information.*

The beRecruited.com website further teaches that the notification that the recruiting entity requested information indicates the identity of the recruiting entity and how many requests to receive the particular athlete’s information have been received from the recruiting entity (see the “Connect with Coaches” section for allowing an athlete to see which coaches have bookmarked him/her and how many times (at least one time by showing the coaches identity to the athlete)). *Further note Figure 6 and Column 8, Lines 20-31 for displaying information corresponding to entities that have viewed a particular motion video.*

The beRecruited.com website also discloses that the initial information includes athletic performance video data, academic information and biographical information about the particular athlete and that coaches can search for requirements such as

athletic performance requirements and athletic academic requirements (**see the “Connect with Coaches” section for coaches having the ability to search for an athlete’s personal, academic and athletic information, including motion videos of the athlete**).

Erdelyi discloses receiving, from the recruiting entity, over a communication network, both a first set of requirements for a first position on a team and a second set of requirements for a second position on a team and based on the first set of requirements, updating a first set of values that are associated with both the recruiting entity and a team’s first position and based on the second set of requirements, updating a second set of values that are associated with both the recruiting entity and a team’s second position (**see Figure 5 and Column 8, Lines 36-41 and Column 10, Line 55 through Column 11, Line 55**).

Erdelyi also discloses that the first and second positions are different positions (**see Figure 5 for entering two different positions**).

Erdelyi also discloses that the initial information includes athlete statistical information (**see Column 6, Lines 38-48**).

Erdelyi and the beRecruited.com website fail to disclose storing a timestamp that indicates when the subsequent information was stored and in response to receiving the request to view the profile of the particular athlete, sending, to the recruiting entity, an indication of when the subsequent information was stored.

The examiner takes Official Notice to the fact that databases stored time stamps indicating the last time a data field in a database has been updated and using the time stamp data to inform a user the last time an update was made.

At the time the invention was made it would have been obvious to a person of ordinary skill in the art, to modify the athlete/recruiter information system, as taught by Erdelyi and the beRecruited.com website, using the time stamping features, as taught by the examiner's Official Notice, for the purpose of allowing a coach or recruiter to be notified of the last time an athlete accessed/updated his/her profile.

Referring to claims 32 and 63, see the rejection of claim 1.

Referring to claim 94, see the rejection of claim 113.

Referring to claim 95, Erdelyi and the beRecruited.com website teach all of the limitations of claim 1, but fail to teach that the notification does not indicate any identity of the recruiting entity.

Sai further discloses displaying information about entities viewing a motion video, without indicating any names of any individual who participates in requesting information about the particular athlete (**see Figure 6 and the rejection of claim 1 for teachings that only a notification that the motion video was accessed is displayed to the viewer**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the athlete notification data sent to the athlete to notify

the athlete that his/her profile has been viewed, as taught by Erdelyi and the beRecruited.com website, to include data that informs the user/athlete which motion videos have been viewed by various different entities, as taught by Sai, for the purpose of allowing the user to easily understand the conditions of the contents in a short period **(see Column 2, Lines 30-31 of Sai)**.

Referring to claims 96-100, see the rejection of claim 113.

Referring to claim 101, see the rejection of claim 100 and further note the "Additional Features" and Item 7 under the Athletes and Parents section.

Referring to claim 102, see the rejection of claim 113.

Referring to claim 103, see the rejection of claim 113 and further note that Erdelyi discloses replacing at least a portion of the initial information with at least a portion of the subsequent information **(see Figures 4a-4f, Figure 5 and Column 6, Line 38 through Column 11, Line 55 for receiving multiple types of requested information and replacing previously requested information of the same type)**.

Referring to claims 104-110, see the rejection of claim 113. And further note Item 11 of the beRecruited.com website for allowing athletes to update his/her profile.

Referring to claims 111-112, see the rejection of claim 113 and further note Items 7 and 13 of the beRecruited.com website for allowing a user to associate themselves with coaches and sending letter to coaches to inform the coach of his/her interest in the coach's athletic program. Also note Items 4 and 8 for allowing a coach to associate an athlete with a coach's profile and notify the athlete that a coach is interested in the athlete's abilities.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/
Primary Examiner, Art Unit 2421

Jason P Salce
Primary Examiner
Art Unit 2421

March 11, 2009